HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition Nos.11058 and 12197 of 2005

Writ Petition No.11058 of 2005

Between:

1.N.Jangaiah S/o.Venkaiah, R/o.Osman Nagar Village of

Ramachandrapuram Mandal, Medak District and others.

…Petitioners

and

1. The Joint Collector, Medak District, Sanga Reddy and others.

…Respondents

Writ Petition No.12197 of 2005

Between:

1. Mokila Mallamma W/o.Ramalingam, R/o.Osmannagar village,

Ramachandrapuram Mandal, Medak District and others.

…Petitioners

and

1. The Joint Collector, Medak District at Sangareddy and others.

…Respondents

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition Nos.11058 and 12197 of 2005

COMMON ORDER:

Writ Petition No.11058 of 2005 has been filed by N.Jangaiah, Pulla Susheela and Kummari Kistaiah assailing the order of the Joint Collector, Medak District at Sangareddy-1st respondent passed in Case No.F3/731/1998-F3/29/INAM/98, dated 25.04.2005.

2. Writ Petition No.12197 of 2005 has been filed by Mokila Mallamma, Mokila Raju and Mokila Jeevan Raju assailing the order of the Joint Collector, Medak District at Sangareddy-1st respondent passed in Case No.F3/731/98-F3/29/INAM/98, dated 25.04.2005.

3. Since the order impugned in both the writ petitions is one and the same, they are being heard together and disposed of by this common order.

4. The brief facts of the case giving raise to filing of these writ petitions are:- The first petitioner in W.P.No.11058 of 2005 viz., N.Jangaiah filed an application before the Revenue Divisional Officer, Sanga Reddy, Medak District under the provisions of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (for short, 'the Act') for granting occupancy certificate. The Revenue Disivional Officer, Sanga Reddy granted occupancy certificate in his favour vide Proceedings No.Dis.B4/INAM/151/93, dated 29.12.1993. The occupancy certificate issued in favour of N.Jangaiah came to be challenged by filing an appeal before the Appellate Authority-Joint Collector, Medak District at Sangareddy by the respondents 4, 5 and 6 in the W.P.No.11058 of 2005. On considering the material on record, the Joint Collector, Medak District at Sanga Reddy came to the conclusion that the original authority did not pass any speaking order and thereby set aside the order of the original authority i.e. Revenue Divisional Officer. The relevant portion of the order passed by the appellate authority reads as follows:

> "On verification of the RDOs Office file bearing No.B4/151/93 it is revealed that Narragudem Veeraiah S/o.Venkaiah has made a representation on 15.10.1993 in which while citing the orders of Revenue Divisional Officer, Sangareddy dt.22.09.1993 has represented that he has purchased an extent of Ac.9.10 gts. land in Sy.No.22/A from the Inamdar

and requested for grant of ORC in respect of the said land but on verification there appears to be no action on the said representation. Moreover no notice appears to have been issued to Narragudem Veeraiah before passing the impugned ORCs. Further as alleged no speaking order was also passed by the Revenue Divisional Officer, Sangareddy as to how he conferred the ORCs to the respondents herein.

Moreover it is also observed from the file that no action was taken on the representation made by Sri Narragudem Veeraiah S/o.Venkaiah even though he has applied for grant of Occupancy Rights Certificates duly enclosing the copy of document through which he has purchased the land from the Original Inamdar.

As many ambiguities taken place while issuing the impugned ORCs in favour of the respondents, I deem it fit and proper to cancel the impugned ORCs issued in favour of the respondents in respect of lands in Sy. No.22/A of Osmannagar (V), Ramachandrapuram (M), Medak District. Accordingly, I order to cancel the impugned ORCs in this case.

The appeal is accordingly allowed."

Hence, these writ petitions by the petitioners, who are respondents 2 to 4, 10, 8 and 9 in the said appeal.

5. Heard learned counsel appearing for the petitioners in both the petitions and learned Government Pleader for Revenue appearing for the respondents 1 to 3 in both the petitions.

6. The principal dispute appears to be whether the property in question is the self-acquired property of Narragudem Veeraiah son of Venkaiah or whether he is a protected tenant. The original authority i.e. the Revenue Divisional Officer, Sanga Reddy, who is the competent authority for granting occupancy certificate under the Act, entertained the application of the first petitioner in W.P.No.11058 of 2005 and granted occupancy certificate. It is not manifest from the order of the Revenue Divisional Officer as to whether any notice was issued to the rival claimants. The records disclose that by the time N.Jangaiah filed an application, the application filed by Narragudem Veeraiah son of Venkaiah was pending. Such is the case, the Revenue Divisional Officer, Sangareddy ought to have given a notice to all the parties concerned before granting occupancy certificate in favour of the first

petitioner in W.P.No.11058 of 2005. The appellate authority having rightly noticed that no notice was given to the effected parties by the Revenue Divisional Officer proceeded to allow the appeal and set aside the order of the Revenue Divisional Officer. The proper course would have been to set aside the order of the Revenue Divisional Officer and remanded the matter back to the same authority for fresh disposal after giving notices to all the parties concerned.

7. Accordingly, both the writ petitions are allowed setting aside the order passed by the first respondent-Joint Collector, Medak District at Sangareddy as well as the order passed by the Revenue Divisional Officer, Sangareddy and the matter is remanded to the Revenue Divisional Officer, Sangareddy for fresh disposal after giving notice to all the parties concerned within two months from the date of this Order.

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B.SESHASAYANA REDDY, J.

DATED: 25th August, 2005.

NOTE:

Issue C.C. within a week

B/O

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